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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,327	09/16/2003	Heidi L. Jacquin	27688-003	9181

29315 7590 08/25/2005

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EXAMINER	
LAVINDER, JACK W	
ART UNIT	**PAPER NUMBER**
3677	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/662,327	JACQUIN ET AL.	
	Examiner	Art Unit	
	Jack W. Lavinder	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8,9 and 17-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8,9,17-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

In view of the Brief filed on 6/10/05, the examiner has reopened prosecution for the application of newly found prior art.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 17, 18, 19, 20, 21 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a device for personalizing the object with an audible message.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips, 2002/0109596.

Regarding claim 8, Phillips discloses a kit comprising a plurality of objects (figure 3) where one person retains one object and the other person retains the second object and a third person would retain a third object. Each of the objects comprise a transmitter-sensor-responder (TSR) that electrically connects and links or physically connects and links (page 1, bottom of col. 1 and top of col. 2) the objects together. The

TSR has the ability to be personalized to send a digital image, text message or audio stream or video stream (page 2, bottom of column 1 and top of column 2). The device only needs to be capable of being personalized with an audible message, which it is.

Regarding claim 9, Phillips discloses a kit having objects with a voice recording and playback mechanism (transmitter-sensor-responder, TSR, page 2, bottom of column 1 and top of column 2).

5. Claims 8 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Coleman, 6223559.

Regarding claims 8 and 20, Coleman discloses a charm bracelet that is sold as a kit with one or more charms/objects (40) having a personalized audible message of the user's specific medical condition (personalized audible message). Each of the charms has a jewelry clasp (42) for allowing connection of a plurality of charms to the bracelet. The method by which the kit is being used is not germane to the patentability of the kit. The kit is a collection of objects that can be used in a variety of ways. The only thing needed from the reference is that it be capable of performing the intended functions/methods. In this case the charm bracelet is capable of performing these functions or methods.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 17-19, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips in view of Haufler, 6289903.

Regarding claims 17, 22, Phillips discloses that the objects can be any accessory that can be worn, carried or otherwise attached in some manner to a person (page 1, top of col. 2), such as, a necklace, a purse, a ring, a watch, a bracelet. Phillips fails to disclose an animal-shaped object.

Haufler discloses that charms in the shape of animals are old and well know. It would have been obvious to make the pendant on Phillips's necklace in the shape of an animal in order to be aesthetically pleasing to consumers who love that kind of animal.

Regarding claim 18, 23, Phillips in view of Haufler is applied as stated above. Furthermore, Haufler discloses two objects, i.e., rings, of identical shape. It would have been obvious to have made the rings with an animal shape as indicated above to produce a more appealing product for animal lovers.

Regarding claims 19, 24, Haufler discloses different animal shapes, a dolphin and a horse. It would have been obvious to change the shape of Phillips's object to include multiple animal shapes to accommodate the wishes of the user, i.e., to allow the user to have a choice of which type of animal they desire to wear.

8. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman, 6223559 in view of Haufler.

Regarding claims 17, 18, 19, Coleman fails to disclose making the charms in the shape of animals. Haufler discloses that charms in the shape of animals are old and well know. Haufler also discloses using different animal shapes, a dolphin and a horse,

for giving the jewelry item a unique and appealing appearance. It would have been obvious to make Coleman's charms in the shape of an animal in order to be aesthetically pleasing to consumers who love that kind of animal. Making the charm from an animal will not destroy the functionality of the device. The only thing being changed is the shape of the charm. The medical cross and other indicia would remain on the animal shaped charm.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Ford, 6445132.

Regarding claim 21, Coleman fails to disclose hook and loop fasteners for attaching the charms to the bracelet. The use of hook and loop fastener tape for attaching one object in a flexible manner to another object is shown by Ford, albeit between a hook and light (figure 7). This still teaches to a person having ordinary skill in the art that a hook and loop fastener tape can be used to attach one object to another. Therefore, it would have been obvious to a person having ordinary skill in the art to use either Colemans's jewelry type clasp or Ford's hook and loop tape fastener. They both perform the identical function of flexibly attaching one object to another equally as well as the other. Also, the specification fails to disclose any criticality attributed to the use of the hook and loop tape over the jewelry clasp.

10. Claims 9 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Tano, 6439723.

Regarding claims 9 and 25, Coleman discloses a charm bracelet that is sold as a kit with one or more charms/objects (40) having a personalized audible message of the

user's specific medical condition (personalized audible message). Each of the charms has a jewelry clasp (42) for allowing connection of a plurality of charms to the bracelet. The method by which the kit is being used is not germane to the patentability of the kit. The kit is a collection of objects that can be used in a variety of ways. The only thing needed from the reference is that it be capable of performing the intended functions/methods. In this case the charm bracelet is capable of performing these functions or methods. Coleman fails to disclose a voice recording and playback mechanism. Coleman does discuss personalizing the charm but doesn't disclose any specifics about a means for recording a personalized audio message.

Tano discloses an audio recording device can be placed on multitude of jewelry devices including pendants/charms (col. 3, lines 50-55) for recording and playing back a personalized message.

It would have been obvious to a person having ordinary skill in the art to provide Coleman's charms with a recording device to allow the user the ability to personalize the charm with a message about a rare medical condition.

11. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Tano as applied above and further in view of Haufler.

Regarding claims 22-24, Coleman in view of Tano fails to disclose making the charms in the shape of animals. Haufler discloses that charms in the shape of animals are old and well know. Haufler also discloses using different animal shapes, a dolphin and a horse, for giving the jewelry item a unique and appealing appearance. It would have been obvious to make Coleman's charms in the shape of an animal in order to be

aesthetically pleasing to consumers who love that kind of animal. Making the charm from an animal will not destroy the functionality of the device. The only thing being changed is the shape of the charm. The medical cross and other indicia would remain on the animal shaped charm.

12. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Tano as applied above and further in view of Ford.

Regarding claim 26, Coleman in view of Tano fails to disclose hook and loop fasteners for attaching the charms to the bracelet. The use of hook and loop fastener tape for attaching one object in a flexible manner to another object is shown by Ford, albeit between a hook and light (figure 7). This still teaches to a person having ordinary skill in the art that a hook and loop fastener tape can be used to attach one object to another. Therefore, it would have been obvious to a person having ordinary skill in the art to use either Colemans's jewelry type clasp or Ford's hook and loop tape fastener. They both perform the identical function of flexibly attaching one object to another equally as well as the other. Also, the specification fails to disclose any criticality attributed to the use of the hook and loop tape over the jewelry clasp.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jack W Lavinder
Primary Examiner
Art Unit 3677

8/19/05